

Peter Rasla, SBN. 24004876
PETER RASLA AND ASSOCIATES, P.L.C.
19200 Von Karman Ave., Suite 500
Irvine, CA 92612
Phone: (949) 387-9443
Fax: (949) 387-9883
peter.rasla@me.com
Attorneys for Plaintiff
MAVRIX PHOTO, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

MAVRIX PHOTO, INC., a Florida corporation,

Plaintiff,

v.

POPSCREEN, LLC; and DOES 1-20 INCLUSIVE,

Defendants.

Case No.

COMPLAINT FOR COPYRIGHT INFRINGEMENT PHOTOGRAPHS OF BRITNEY SPEARS

DEMAND FOR JURY TRIAL

Mavrix Photo, Inc. (“Mavrix”), by and through their attorneys of record, complains against POPSCREEN LLC (“Popscreen”), a Texas limited liability company; and DOES 1 through 20 (collectively, “Defendants”) as follows:

JURISDICTION AND VENUE

1. This is a civil action against Defendants for copyright infringement in breach of the United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction over the copyright infringement under 28 U.S.C. § 1331, 17 U.S.C. § 501(a), and 28 U.S.C. § 1338(a) and (b).

2. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(a) in that the claim arises in this Judicial District, the Defendants may be found and transact business in this Judicial District, and Defendants have contractually waived the right to challenge jurisdiction in this Judicial District. Defendants are subject to the general and specific personal jurisdiction of this Court because of their contacts with the State of Florida.

PARTIES

3. Plaintiff Mavrix is a corporation incorporated and existing under the laws of Florida, with a principal place of business located in Los Angeles, California.

4. Defendant POPSCREEN, LLC. (“Popscreen”) is a limited liability company incorporated and existing under the laws of Texas. Popscreen is a pop-culture and online tabloid site, with its principal place of business at 5005 Hidalgo St., Unit 415, Houston, Texas 77056-6423.

5. The true names or capacities, whether individual, corporate or otherwise, of the Defendants named herein as DOES 1 through 20, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names, and will ask leave of Court to amend this Complaint and insert the true names and capacities when ascertained.

6. Plaintiff is informed and believes and, upon such, alleges that each of the Defendants designated herein as a “DOE” is legally responsible in some

manner for the events and happenings herein alleged, and that Plaintiff's damages as alleged herein were proximately caused by such Defendants. Plaintiff believes that some of the DOE defendants are partial owners of Popscreen, or contribute heavily to Popscreen's content, and are personally liable for Popscreen's copyright infringement.

FACTS COMMON TO ALL COUNTS

7. Mavrix is a prominent celebrity photography agency based in Miami, Florida. Mavrix licenses its photographs to its end customers, often popular publications like People or US Weekly.

8. Popscreen owns the website www.popscreen.com, which is a website that purports to have over 25 million video clips and 5.1 million page views.

9. Popscreen has reproduced, publicly distributed and publicly displayed photographs belonging to Mavrix via their website www.popscreen.com.

10. This photograph distribution and display is done without regard to Mavrix' ownership of the copyrights in those photos, without procuring a license from Mavrix, and without providing any compensation to Mavrix.

11. Despite having no permission, consent, or license to do so, Popscreen reproduced, publicly distributed and publicly displayed, as well as made available for other's download and display, certain original photographs of superstar singer Britney Spears, (the "Spears Photos") belonging to Mavrix, which photos of Mavrix were publicly displayed on www.popscreen.com in a video on the

popscreen website located at: <http://www.popscreen.com/v/6TAnF/Britney-Spears-Bikini-Body-Looking-Good> and other URL's as shown in Exhibit 1. True and correct copies of the 8 Spears Photos, their corresponding copyright registration certificate, and their infringement by the Defendants thereof, are attached as

Exhibit "1".

12. Defendant reproduced, publicly distributed and publicly displayed the Spears Photos without permission and without a copyright license.

FIRST CLAIM FOR RELIEF
(Copyright Infringement, 17 U.S.C. § 501)

13. Plaintiff Mavrix incorporates here by reference the allegations in paragraphs 1 through 12 above.

14. Mavrix is the owner of all rights, title and interest in the copyrights to the six Spears Photos, which substantially consist of material wholly original with Plaintiff and which are copyright subject matter under the laws of the United States. Mavrix has complied in all respects with the Copyright Act and all of the laws of the United States governing copyrights. The Spears Photos have been registered with the United States Copyright Office.

15. Defendants have directly, vicariously and/or contributorily infringed, and unless enjoined, will continue to infringe Mavrix's copyrights by reproducing, displaying, distributing and utilized the Photos for purposes of trade violation of 17 U.S.C. § 501 *et seq.*

16. Defendants have willfully infringed, and unless enjoined, will continue to infringe Mavrix's copyrights by reproducing, displaying, distributing and utilizing the Photos for purposes of trade. Indeed, Defendants have been previously placed on notice by Mavrix about the illegal nature of Defendants' acts.

17. Defendants have received substantial benefits in connection with the unauthorized reproduction, display, distribution and utilization of the Photos for purposes of trade, including by increasing the traffic to www.popscreen.com and thus increasing the advertising fees generated by www.popscreen.com.

18. All of the Defendant's acts are and were performed without the permission, license or consent of Mavrix.

19. The said wrongful acts of Defendants have caused, and are causing, injury to Mavrix, and unless this Court restrains Defendants from further commission of said acts, Mavrix will suffer irreparable injury, for all of which it is without an adequate remedy at law. Accordingly, Mavrix seeks a declaration that Defendants are infringing Mavrix's copyrights and an order under 17 U.S.C. § 502 enjoining Defendants from any further infringement of Mavrix's copyrights.

20. As a result of the acts of Defendants alleged herein, Mavrix has suffered and is suffering substantial damage to its business in the form of diversion of trade, loss of profits, injury to goodwill and reputation, and the dilution of the value of its rights, all of which are not yet fully ascertainable.

21. Because of the willful nature of the copyright infringement, Mavrix is entitled to an award of statutory damages of up to \$150,000 per willfully infringed photograph which amounts to \$1,200,000 (\$150,000 x the 8 images). If other infringements are discovered in this case, this pleading will be augmented accordingly.

22. Mavrix is also entitled to its attorney's fees in prosecuting this action.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

1. The Defendants, their officers, agents, servants, employees, representatives, and attorneys, and all person in active concert or participation with them, be permanently enjoined from designing, copying, reproducing, displaying, promoting, advertising, distributing, or selling, or any other form of dealing or transaction in, any and all advertising and promotional materials, print media, signs, Internet web sites, or any other media, either now known or hereafter devised, bearing any design or mark which infringe, contributorily infringe, or vicariously infringe upon Plaintiff Mavrix's rights in the Photos.

2. Defendants be held liable to Plaintiff in statutory damages for copyright infringement, including willful infringement, in accordance with 17 U.S.C. §§ 504(a)(2) & (c) and for costs, interest and reasonable attorney's fees pursuant to 17 U.S.C. § 505.

3. An accounting be made for all profits, income, receipts or other benefit derived by Defendants from the reproduction, copying, display, promotion, distribution or sale of products and services, or other media, either now known or hereafter devised, that improperly or unlawfully infringes upon Plaintiff's copyrights pursuant to 17 U.S.C. §§ 504 (a)(1) & (b).

4. Requiring Defendants to account for and pay over to Plaintiff all profits derived by Defendants from their acts of copyright infringement and to reimburse Plaintiff for all damages suffered by Plaintiff by reasons of Defendant's acts, pursuant to 17 U.S.C. §§ 504 (a)(1) & (b).

5. Actual damages for copyright infringement pursuant to 17 U.S.C. §§ 504 (a)(1) & (b).

6. That Plaintiff be awarded any such other and further relief as the Court may deem just and appropriate.

Dated: January 18, 2013

PETER RASLA AND ASSOCIATES, P.L.C.

By: /s/ Peter Rasla
Peter Rasla, Attorney for Plaintiff,
Mavrix Photo, Inc.

DEMAND FOR JURY TRIAL

Plaintiff Mavrix Photo, Inc. hereby demands trial by jury of all issues so triable under the law.

Dated: January 18, 2013

PETER RASLA AND ASSOCIATES, P.L.C.

By: /s/ Peter Rasla
Peter Rasla, Attorney for Plaintiff,
Mavrix Photo, Inc.